

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference BCS 03-1012		FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/EP2004/006610		International filing date (day/month/year) 18.06.2004		Priority date (day/month/year) 01.07.2003
International Patent Classification (IPC) or national classification and IPC C07D401/12, A01N43/50				
Applicant BAYER CROPSCIENCE GMBH et al.				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand 06.04.2005		Date of completion of this report 30.06.2005		
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Telephone No. +49 89 2399- 2782 Fritz, M.		



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**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/006610

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

Description, Pages

1-122 as originally filed

Claims, Numbers

1-10 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing *(specify):*
 - ☐ any table(s) related to sequence listing *(specify):*
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing *(specify):*
 - ☐ any table(s) related to sequence listing *(specify):*

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-10
	No: Claims	
Inventive step (IS)	Yes: Claims	1-10
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-10
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

D1: EP A 0 580 374 (cited in the application)

The present case discloses compounds of the general formula (I) (claims 1-7), processes for the preparation thereof (claim 8), pesticidal compositions thereof (claim 9) as well as the pesticidal usage thereof (claim 10).

3-Pyridylcarboxamide derivatives being suitable as pesticides are known from D1, however none of the compounds exemplified in this prior art document comprises a group of formula (A) or (B) as defined in claim 1 of the present case.

Therefore the subject-matter of claims 1-10 is novel in the sense of Art. 33(2) PCT.

Closest prior art is D1.

The problem of the present application was to provide further 3-pyridylcarboxamide derivatives which are suitable as pesticides.

As can be seen in the description, this problem was solved by the compounds (I) in which W designates a CF₃-group and Z is CH.

Among others D1 refers to cpds. 79 and 80 (p. 26) in which the amide-nitrogen of a 4-CF₃-substituted 3-pyridylcarboxamide is doubly bound to a heterocyclic moiety. In the present case the heterocyclic moiety is a hydrogenated imidazole rest, whereas in cpd. 79 and 80 of D1 the corresponding moiety is a 6-membered heterocycle comprising only one heteroatom. It is furthermore noted that the compounds 79 and 80 are merely listed in a table, but neither synthesized or used in the formulation examples.

It is thus concluded that the compounds (I) which are a solution to the problem underlying the present case are not obvious over D1.

By consequence an inventive step in the sense of Article 33(3) PCT is acknowledged for that part of the subject-matter of claims 1-10 referring to those compounds (I) in which Z is CH.

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(SEPARATE SHEET)**

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The acknowledgement of an inventive step for those compounds (I) in which Z is N would be dependent from the demonstration of the pesticidal activities of selected representatives of these - up to now - fictive substances.

Further objections:

The scope of the groups "cycloalkyl" and "heterocyclyl" in the description (p. 5, line 4, p. 7, lines 19-22, respectively) is broader than a skilled reader would expect it when reading the same terms used in claim 1 (this skilled reader would understand these groups as being unsubstituted). Hence the claims concerned are not in accordance with the description as requested by Article 6 PCT.